YEMEN: PRELIMINARY D/G ASSESSMENT

DRAFT

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At the request of USAID/Yemen, the G/DG Center deployed through the DIS Project a team to carry out a preliminary assessment to identify possible areas of intervention in the DG sector. To this effect a SOW was approved by USAID/Yemen and the ANE Bureau. This draft report is pursuant to that SOW and contains the initial findings of that assessment and is for discussion purposes only.

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THE POLITICAL CONTEXT: POTENTIAL TRANSITION TO DEMOCRACY AMIDST AMBIGUITY AND CHANGE

Yemen's transition to democracy commenced in dramatic fashion when North and South Yemen merged to form the Republic of Yemen (ROY) in May, 1990. Two formerly authoritarian regimes, both of which were under economic and political pressure, concurred in the assessment that unification and democratization were the only means by which possibly calamitous economic and political breakdowns could be avoided. By regional standards democracy veritably exploded in the newly created ROY, with novel freedoms of expression and assembly being granted to accompany the process of securing unity through national elections to parliament.

Regrettably the twin processes of unification and democratization encountered a host of problems which could not be resolved and which led to the eruption of civil war some four years after unity had been declared. That war was blessedly short--lasting less than three months--and while it resulted in considerable loss of life and destruction, it destroyed neither unity nor the newly established institutions and practices of democracy. Indeed, while the war created new problems and challenges, it did clear the way for a more complete unity than had been possible under what amounted to a dual condominium arrangement prior to its outbreak. A major symbol of democratic transition, the ROY parliament, which like other institutions was partially hobbled by lingering hostilities and rivalries between the leaderships of North and South, emerged from the war as the national institution in which all major political forces are represented and in which many hopes are vested for the continuation and broadening of the democratic transition. Indeed, now that the leadership of the former South has fragmented and that of the North has consolidated its unilateral control over the executive branch, the legislature, whose legitimacy is assured precisely because it is the only institution in which all national interests are represented, is the one body with the potential to constrain possible executive excesses and seek to enforce accountable governance more generally.

But Yemen's transition to democracy is an experiment being conducted in less than propitious circumstances. Currently the country is facing severe economic difficulties while wrestling with numerous political problems associated with the outbreak and consequences of the civil war. The uncertain political environment renders problematical decisions as to how external donors can best support the further development of democracy and improved governance in the country. These decisions are made even more difficult by the fact that major aspects of politics in the Republic of Yemen are ambiguous and subject to rapid change.

Ambiguity surrounds numerous key events and relationships, which are subject to sharply differing interpretations. Examples of these ambiguities, which are here detailed in order to illustrate the complex and challenging political environment, include the following:

1. Who is responsible for the civil war?

View one: It resulted from the dynamics of union. Two principal antagonists were struggling for power, neither of which was willing to make the compromises necessary to avoid conflict and both of which share the blame for the outbreak of hostilities.

View two: It was a war of conquest of the South by the North that was planned in advance and implemented when the opportunity presented itself. From the outset of union leadership in the North was intent on subduing the South.

View three: Southern leadership brought on the war by moving toward secession, an act which the country as a whole did not want and which the North moved to prevent.

2. How will the population respond to sharply deteriorating living conditions?

View one: A popular explosion is imminent. Riots in December 1992 point to the potential for widespread civil disobedience. Since then the standard of living has deteriorated substantially and is likely to precipitate a renewal of such riots, possibly on a much wider scale.

View two: Political organization is required to channel and organize popular dissatisfaction into sustained civil disobedience. The riots in December 1992 resulted from political agitation by YSP cadres, who are no longer capable of acting. Popular masses are like lumps of dough, which require yeast if they are to "rise." Yeast (i.e., political agitators) is no longer present in Yemen.

3. What is the nature of the relationship between Islah, on the one hand, and the General People's Congress/state apparatus/presidency, on the other?

View one: They are in conflict with one another. Islah is pursuing a strategy of "termiting" the state, gradually penetrating and destroying its ability to resist Islamicization. Islah has an above ground, legal, moderate wing, and a radical, terrorist underground wing. The President made an error in encouraging participation by the former wing, for this provides the opportunity for the

movement as a whole to gain an unassailable political position.

View two: Islah is no Frankenstein's monster about ready to run out of control. The President nurtured the development of Islah, as attested to by the fact that his brother, Ali Muhsin, was deputized to play a leading role in Islah's creation and continued operation. In reality Islah is a stalking horse for the President. It provides him an alternative base of support precisely because it appears to be autonomous from him and the state apparatus, when in reality it is not. Its very presence precludes the emergence of a truly independent and radical Islamist movement.

4. What is the true character of Islah?

View one: It is a rational, modernist organization whose purpose is to improve the quality of economic, political and social affairs in the country. It attracts some of the most educated, progressive young elements in the country and provides them an organizational base from which they can coordinate efforts to overcome backwardness and personalism in government. Its economic policies are very similar to those advocated by the IMF and World Bank and its political preferences are democratic. While the Zindani wing of Islah may be radical, it accounts for no more than 15% of its membership, with the overwhelming majority of members being either Islamist modernists or traditional tribalists.

View two: Islah may have a "pretty face," but its real character is anti-democratic and radical Islamist, just like that of Hassan al Turaibi's Islamist organization in the Sudan. The Zindani wing is gaining the upper hand against more moderate elements. Zindani supporters and others in the Islah cooperate with the "Afghan Arabs," helping them to operate training bases and support terrorist activities in Egypt and elsewhere.

5. What is the nature of the relationship between the President and Sheikh Abdullah bin Husein al Ahmar, leader of the Hashid tribal confederation, speaker of the parliament, and close associate of Saudi Arabia?

View one: The Sheikh is the tool of the President. As modernization proceeds tribalism is being eroded. The civil war demonstrated the absolute superiority of the army over any and all irregular forces. The Sheikh serves as an intermediary for the President, retaining the loyalty of the Hashid and playing an important role in parliament. But the Sheikh operates in conjunction with the President; does not have the President's access to state resources; and does not have sons who can inherent his position, whereas the President has a network of brothers, cousins and sons who can maintain the state-based "dynasty."

View two: The Sheikh has been the "kingmaker" in Yemeni politics since 1962 and is the co-equal of the President, likely to assume more power as the President's influence recedes. With support from the Saudis; as the key link between the state and Islamists; and with a traditional tribal support base that exceeds the size and power of any other political support base in the country, the Sheikh runs his affairs more or less autonomously from the President. They have a relationship of convenience that could deteriorate into one of conflict, in which case the Sheikh could be the winner.

The existence of such ambiguity surrounding central issues in Yemeni politics suggests the highly complex and opaque nature of the country's political system. Even well informed observers of Yemeni affairs differ sharply on the above mentioned and other issues. It is not surprising, therefore, that interpretations of the causes of public policy outcomes vary widely. Some of these outcomes and their interpretations are as follows:

1. Why has the local government law promised in the *wathiqa* (Document of Accord) signed prior to the civil war, reaffirmed by the President in the wake of the war, and being the duty of a special commission to draft, not been issued?

View one: The Islah is quietly opposing any decentralization of power. Now that it has penetrated the state and controls six vital ministries responsible for public services, and is able to appoint thousands of supporters to the state apparatus, it does not want to decentralize administrative or political functions. If it were to do so it would provide resources for its opponents, for Yemen has a highly heterogenous political culture which local government would simply reinforce, thereby rendering absolute control by Islamists impossible. Unlike Algeria, therefore, Islamists in Yemen see their path to power through central, not local government.

View two: The President does not want to decentralize power because he has just succeeded in conquering the South and now wants to ensure central control. Just like the Islamists, he fears that local government would provide power bases for his opponents.

View three: The law has not been issued because redrawing borders is a highly complex, politically and technically challenging task. Given the Government of Yemen's limited resources in this area, it is not surprising that it is taking months for an appropriate law to be issued.

2. Why has the Government of Yemen thus far failed to adopt economic stabilization and structural adjustment measures?

View one: Islah now controls the vital service ministries that deal directly with the people. Having just taken over these portfolios in the wake of the civil war, it does not want to be held responsible for cutting back subsidies and causing unemployment and other economic hardships. Islah may not resist a further deterioration of the economy, for such deterioration is likely to pave the way for an Islamist takeover of power.

View two: The regime rests on a patronage network, the needs of which were expanded by unification and then by the civil war. In order to hold the political system together, the President needs access to patronage, which he can in turn dole out to his clients and use to buy off potential enemies. Economic rationalization and reform thus run counter to the political rationality that underlies the present system of patronage. Since political needs take priority over long term economic development, economic reform policies will not be adopted in the near future.

3. Why are many Yemenis increasingly fearful of human rights abuses by the government?

View one: The rising power of Islah and intimidation of secular politicians by it and associated Islamist elements lies behind this anxiety. Before the civil war, when the YSP still had significant political and military power, a violent campaign against secular politicians was waged by Islamists. Now that the YSP has been politically decimated, its member and supporters, as well as other secularists, are at the mercy of Islamists, and that mercy will be notable in its absence.

View two: The President is intimidating potential opponents by selected resort to abuse of human rights. He is doing so as part of his strategy to consolidate power. Prior to union his regime engaged in widespread HR abuse. Now that the YSP has been defanged, the regime will do so again.

View three: Abuse of human rights in the wake of the war is a more or less natural phenomenon as scores are settled by a myriad of actors. There is no guiding hand behind these abuses and they are likely to recede as the war and memories of it also recede into history. The fear of human rights abuses is thus a temporary response to a transitory, post war situation.

View four: Those who are alleging an increase in HR abuses are doing so out of ulterior motives to discredit the government, which has a much better HR record than virtually all other Arab governments. "Crying wolf" is a strategy to try to gain some political power in the wake of having lost it as a result of the civil war.

4. Why were so many traditional notables elected to the parliament in 1993?

View one: Traditionalists dominate the parliament because they dominate political life more generally. Yemenis look up to traditional leaders, who resolve disputes for them and assist them in obtaining governmental services. Elections just reproduced the structure of socio-political power in the country, thereby demonstrating that the elections were truly free and fair.

View two: Traditionalists won in such large numbers because the three major political forces at the time had an interest in them so doing. Leaders of the political parties did not want to have a parliament with large numbers of modern, educated, and active members, who might aspire to independent leadership roles. Thus candidates were favored who had local

power bases and would be content with them, leaving national political issues to the party leaders. Nominations and even the general elections were thus manipulated accordingly.

5. Why has Yemen established or maintained good relations with Sudan, Iran and Iraq?

View one: Islah is seeking to integrate Yemen into a broader alliance of Islamist states. The President has not wanted to conflict with Islah, so has gone along with its preferences for closer relations with Iran and Sudan. The relationship with Iraq continues because it reflects the President's preferences, or because Islamists support it out of anti-U.S. sentiments.

View two: The President has forged a coalition of the enemies of Yemen's primary enemy, which he sees as being Saudi Arabia. Relations with Sudan, Iran and Iraq are dictated by geo-political realities. This is an alliance of convenience and of the weak against the "superpower" of the Arabian Peninsula.

Finally, the very essence of the government is ambiguous and disputed. One particularly malignant view, held principally by political activists associated with the losing side in the civil war, is that the regime is akin to that of Hafiz al Asad's in Syria, Saddam Hussein's in Iraq, or Mu'amar Qadhafi's in Libya. Namely, these are all tribal-military states, or ones in which a primordial group, be it a tribe or ethnic, religious, or regionally based group, penetrates the state and especially the military apparatus, and then uses it for its own purposes. Core loyalty is based on primordial ties, which in turn facilitate the control of the state. In Yemen the inner core is provided by the President's closest relatives. The next layer of loyalty is that of the Sinhan tribe and the four villages upon which it is based. The final layer of primordial loyalty is that of the Hashid tribal confederation of which the Sinhan are members. These loyalties in turn undergird and control the military, security services, and even the civil service and public sector.

The modus operandi of a tribal-military state is one in which institutions are subordinate to primordial loyalties and cannot, therefore, be developed because they will never be allowed to operate autonomously. Power will always be exercised through personal connections, because all power flows from the inner group. The economy is subordinated to the political requirements of patronage, hence it can never be organized on rational economic principles. The weakness of tribal-military states thus is the long term diminution of material resources, hence of the patronage required to bind the system together. In the case of Yemen the tribal-military state, which through the civil war just managed to consolidate its control over the whole of Yemen, may be on the verge of collapse because it has inadequate resources to sustain itself.

Another view of the government of Yemen is more widespread, benign, and accurate. In this interpretation the President is a skilled modernizer, who has learned from his predecessors. President Ibrahim al Hamdi, who was assassinated in 1976, was a modernizer who sought to build the state on modern structures, and by moving too fast in this direction he alienated much of political society, which rests on tribal and other traditional ties. Learning from this experience, President Ali Abdullah Salih has sought to gradually develop modern institutions, while maintaining a secure power base in tribal society. Under his 15 year rule Yemen has made major accomplishments and is likely to continue to do so under his progressive leadership.

Moreover, his personal leadership style is much closer to that of King Hussein of Jordan than to the there other leaders just mentioned. He has allowed various trends to participate in government, including socialists and Islamists. He believes in dialogue, as attested to not only by his incorporating disparate elements into governmental structures, but by his personal preference for direct dealings with a wide variety of Yemenis, including those who openly declare their hostility toward him and his regime. He is a political activist, engaging in dialogue across a broad front with modernists and traditionalists, southerners and northerners, members of the government and of the opposition. This behavior has helped to foster a stronger sense of Yemeni nationhood and may have prepared the way for economic sacrifices necessary if successful stabilization and structural adjustment measures are to be adopted.

IMPLICATIONS OF THE POLITICAL CONTEXT

It is not surprising that ambiguity surrounds Yemeni politics. It is a remote, poor, infrequently studied country which has had a profoundly violent political history that since 1948 has witnessed the assassinations of Imams and Presidents, two civil wars, major military clashes between North and South, and political penetrations and outright invasions by neighboring countries. It has the most tribalized society in the Arab world. Much of the country was never conquered by colonial rulers, while other parts were integrated into imperial systems. On a composite index of development indicators, it ranks 143rd in the world.

In sum, given this political history and present complexities, it is impossible to speak with great assurance on current political issues, let alone future political developments. Informed observers disagree in their interpretations of the issues raised above. It is beyond the assessment team's capacity to establish the absolute "truth" with regard to these issues.

Nevertheless, it irrefutably is the case that the Republic

of Yemen made rapid and dramatic progress toward democracy in the early 1990s, and that most of what was accomplished then was not destroyed by the civil war. The newly built foundations of democracy, which were weak precisely because of their novelty, have been shaken by the war, but they remain to be built upon. Most importantly, the principle divide in Yemeni politics before the war--which pitted the leadership of the North against that of the South--has now been replaced by a struggle over political pluralism, a struggle that pits the legislative versus the executive branch and those working to expand personal political freedoms against those who would restrict them. Now is not the time to abandon hope for further democratization in Yemen. Instead, it is appropriate to seek appropriate ways in which that process can be supported in new and challenging circumstances.

USAID and other donors have to accept the reality of ambiguity and rapid change that characterize the Yemeni political economy, for clarity and stability are unlikely to materialize soon. The task is to devise democracy/governance activities that are founded not on absolutely confident projections of future developments, but on the logic of "best bets" in difficult circumstances. Democratization, after all, is a political struggle, not a historically ordained process. When politics are poorly institutionalized, not well understood, rapidly changing, and increasingly involving questions of permanent distribution of power between political actors and governmental institutions, best bets on assistance are likely to be small, tentative, and placed in areas where some success has already been enjoyed and can be built upon. Flexibility, continuing assessment, and diversity of activities are watchwords for success in such conditions.

REASONS FOR U.S. ASSISTANCE FOR DEMOCRACY AND GOVERNANCE IN YEMEN

Given a cautious approach to governance/democracy activities in Yemen, there are reasons to be confident that a well tailored program would contribute to achieving appropriate goals. One such goal is the spread of democracy and improved governance in the region. Whether entirely successful or not, the Yemeni experiment with unification, freedom of speech and assembly, elections, and parliament have been widely interpreted in the Arab world as the first real effort to democratize on the Arabian peninsula. It is seen as a test case, not only of Yemeni and Arab abilities, but of U.S. commitment to democratization. To reject this experiment as unworthy of U.S. assistance would be seen as hypocritical in much of the Arab world and Yemen, and may be tantamount to condemning it to failure, for there are elements in Yemen--as there are in most developing countries--who oppose democracy and want it to fail.

Another goal is that of contributing to political stability in a country which is proximate to two thirds of the world's known oil reserves. Although the Saudi-Yemeni relationship under President Ali Abdullah Salih has been a difficult one, it would be far more difficult were central authority to break down in Yemen or were radicals (presumably of an Islamist character) to come to power and seek to turn what probably is an alliance of convenience with Sudan and Iran into an Islamist encirclement of the Arabian Peninsula. While small amounts of U.S. assistance are not likely to be of enormous consequence, such assistance would suggest that the U.S. is interested in and committed to the further development of democratic institutions in the country and has reasonable confidence in the success of that undertaking. It also indicates U.S. approval and acceptance of recent political developments, thereby discouraging adventurous activities by opponents of the status quo.

A third U.S. goal that would be served by an appropriate program is that of demonstrating U.S. support for ways to overcome zero-sum confrontations between incumbent regimes and Islamist oppositions, which increasingly is the nature of Arab politics. In Yemen the government has permitted Islamists to participate in politics and even to assume administrative responsibility in vital areas of government. Yemen has now surpassed Jordan in becoming the Arab test case of the intentions of Islamists and their willingness to abide by democratic, pluralistic principles and to contribute to enhanced governance and accountability. The U.S. has a strong interest in facilitating a successful outcome to this experiment. If the Yemeni test fails and deteriorates into another zero-sum contest between Islamists and security forces, then democracy will be interpreted widely as not offering a solution to the problems facing governments and peoples in the region. While Yemen may not be the ideal venue in which to test propositions about democracy's superior capacity to avoid debilitating civil conflict and to deal with the specific threat of radical Islam, it nevertheless is the Arab location where that test is now being run and monitored.

In conclusion, despite the fact that Yemen is a poor and remote country, the stakes for the U.S. there are reasonably high, and those stakes now turn to a large degree on the success or failure of an experiment that is interpreted in the region as the test case of Arab capacity to democratize. To turn its back on the experiment would entail a significant cost for U.S. policy not only toward Yemen, but toward the Gulf and toward the Arab world. The challenge thus is to craft a well tailored program in difficult circumstances that will not rebound negatively; which will by its very existence contribute to U.S. credibility and Yemeni momentum toward democracy; and which has as high a probability as possible of actually assisting in the transition to democracy and improved governance.

SECTOR ASSESSMENTS

The assessment team's objective as articulated in the scope of work was to assist USAID/Yemen in developing a DG strategy/action plan. Pursuant to this objective, the assessment was to assist the mission in identifying short and long term interventions in order to accomplish its democracy and governance objectives. Following discussions with the Yemen country team at the outset of the TDY, six potential areas of DG activities were investigated. Those areas include parliament, local government, the administration of justice, human rights, NGOs, and elections/political parties.

Parliament: Pros and Cons of Assistance to It

In the wake of unification which stimulated a rapid acceleration in the pace of democratization, AID/Yemen, based on appropriate assessments, made the determination that parliament would play a key role in the transition to democracy. Civil society was energized and increasingly organized. Demand for participation and appropriate public policies was growing exponentially. The challenge, therefore, was not further to stimulate demands from civil society, but to "supply" appropriate fora or venues within which those demands could be articulated, aggregated, and converted into public policy. Since Yemenis had themselves decided that parliament was to be the principle forum within which political demands were to be aired and processed, AID/Yemen wisely chose to provide assistance in support of that decision. A cooperative agreement with AMIDEAST was signed in order to assist in developing the capacities of the Yemeni parliament. USIS/Yemen also devoted considerable resources (over $200,000 since 1990) to assist in developing the legislature.

The basic question is whether political conditions that obtained prior to the civil war that made support for parliament a logical and preferred activity for supporting democratization more generally, remain propitious. The answer is "yes," but not because the institution is a strong one. It undeniably is poorly institutionalized and has few resources. Its continuing political weakness is revealed by the fact that since 1993 it has been unable to restrain the President from issuing several decrees that have the effect of law and to force him to submit them as legislative proposals to the parliament. The parliament has also failed in its attempt to take control of the Central Organization for Control and Audit away from the executive branch, which were it able to do would provide it with a mechanism to oversee the executive and its expenditure of funds. Declining attendance by MPs at parliamentary sessions reflects their disenchantment with the institution and the fact that if offers them so few resources. Some prefer to tend their local power bases rather than "waste" their time in parliament. The parliament has virtually no capacity to draft legislation, or even to amend bills submitted to it by the executive. Committees cannot amend legislation, but only issue reports, which are read, along with the proposed legislation, on the floor of parliament. As a result of this procedure MPs, tend to make editorial rather than substantive changes to legislation, sometimes in the process undermining the coherence of the proposed law and in general failing to make a positive contribution to the formulation of public policy. MPs do not have access to offices, telephones, staff, information resources, or even to toilets.

Clearly the parliament is not a powerful or well endowed institution. Yet in some respects it is superior to many of its Arab counterparts and offers greater potential for further

development. Unlike most other Arab parliaments, for example, the Yemeni legislature is a multi-party body, in which the right of the opposition to participate is established and respected. Debate in the Yemeni parliament is intense and the executive comes in for regular and reasonably informed criticism. Its sessions are given regular coverage on television and in the print and electronic media. It does provide a forum within which some bargaining between government and opposition occurs. Its members perform a variety of ombudsmen-like services for their constituencies, services made easier by the fact that they are MPs. The parliament is the institution that symbolizes Yemeni democratic aspirations. The fact that both observers and MPs are disappointed that it has not been more effective suggests both the high level of aspirations for it and a continued desire to achieve those aspirations. That parliament was the venue in which participants sought to avoid civil war by fashioning a compromise, until the conflict became so intense that it became essentially impossible to resolve, also attests to its relative importance.

But the principle reason why AID/Yemen's original assessment of the signal importance of parliament remains valid is that the civil war has removed the other major counterbalances to centralized executive control. The state and party structures of the South have been politically neutralized. Local government is not functioning. Control over the military is now entirely in the hands of San`a. Restrictions on personal political freedoms appear to be increasing. Thus at the level of institutions and personal expression, constraints on executive power are fewer now than prior to the civil war. While parliament is not immune to the political effects of the war, it has been the one institution that has been most resistant to them. Constitutional guarantees of freedom of speech for members of parliament have assumed greater importance and those guarantees are being utilized. The awareness by those members that the fate of the experiment with democracy is in their hands has renewed their sense of commitment. Members know that they and their institution are engaged in a political struggle with the executive. Their problem is not political will, it is the lack of access to institutional resources.

MPs interviewed by the assessment team, who included members of the pro-Government General People's Congress (GPC), Islah, the Yemeni Socialist Party (YSP), the Ba`th, and independents, were unanimous in their desire to have parliament's capacity improved so as to better perform the functions of executive oversight, contributing to the making of public policy, performing services for constituents, and participating in the budgetary process. While these MPs referred to political conflicts between the parties outside the parliament, they all asserted that within parliament all members, regardless of partisan identification,

shared a desire to upgrade the institution and for it to assert itself vis a vis the executive. GPC members approached the assessment team in private to explain to them that they strongly desired the capacity to oversee the executive branch and win greater autonomy for parliament from it. In sum, there is a strong desire on the part of MPs to develop the capacities of the legislative branch. This desire is the principle foundation upon which assistance activities need to be based.

Parliament: Present Activities

When MPs were asked by the assessment team about the AMIDEAST operated training program in parliament, they responded in one of two ways. Either they were unaware of it, or they were critical of it. Their criticism was invariably that the program trained "their" but not "our" staffers. The "their" referred to the staff under the Speaker of Parliament--staff responsible for the internal administration of the institution. "Our" staffers referred to staff that would provide MPs with services, including information, assistance in bill drafting, help in looking after the interests of constituents, budgetary analysis and accounting expertise for overseeing the executive.

The widely held perception that the current activity works only with administrative and not technical staff reflects reality. Other than the installation of a voting and speaking system, training of administrative staff is the only activity that has been undertaken. This does not reflect the original assessments or their recommendations, nor does it serve the perceived needs of MPs themselves. The preferences of Yemeni MPs and the basic principles of legislative development are congruent. They are that the basic functions of the legislature, which include oversight of the executive, servicing the needs of constituents, participating in the budgetary and public policy processes, and so on, should be upgraded through appropriate training and technical assistance. For the parliament better to perform these functions it is important that the emergence of a leadership group be facilitated. This group would take responsibility for creating and fostering a vision of legislative development which, if it is effective, will gradually imbue the institution as a whole.

Possessing limited resources and lacking management with experience in legislative development, AMIDEAST appears to have made choices based on that organization's experience with computer and other technical training, and on the assumption that the primary goal was to please the "management" of parliament. The unanticipated consequences of these choices were to conduct training that was only marginally relevant to the key functions of parliament, and to offend those for whom the institution

exists, i.e., MPs. The project has not yet contributed to the capacity of the institution to assert itself vis a vis the executive. The workplan proposed by AMIDEAST on 31 October 1994 for activities in parliament for the coming year does include a proposal to assist training in bill drafting. This is the first departure from assistance for internal administration only. It is not, however, a particularly appropriate activity, either from the perspective of MPs themselves, or from the perspective of the needs of the institution. MPs want first and foremost to exert some control over the executive, especially in financial matters. Secondly, they want to be able better to perform constituency services. Proposing legislation is an activity that will develop with time. It is not the first function typically developed in such a program.

The positive aspect of AMIDEAST's activities, supplemented by USIS language training of parliamentary staff, is that acquired technical and language skills now provide a foundation for activities more directly related to legislative development. With reorganization and the provision of guidance by an experienced legislative development specialist, the work that has been done thus far can serve as the basis for further development.

Parliament: Recommendations

Parliament presents a major target of opportunity for further assistance. Activities already undertaken by AMIDEAST and USIS can be built upon. MPs and staffers are keen to participate in programs intended to develop the capacities of their institution. While the executive branch is jealousy guarding as many powers as it can, the collective political will of MPs is probably sufficient for them and their institution to begin to impose some measure of accountability on the executive. It can only do so, however, if parliament has some resources to implement that will.

The primary recommendations are that the present AMIDEAST operated activity be reorganized and operated on the basis of sound legislative development principles, and that an experienced legislative development specialist take primary responsibility for the activity. The need to develop a leadership group committed to the institutions' further development, and the need to develop basic functions, especially those of executive oversight, constituency services, budgetary activities, and contribution to public policy, should take priority in the next stage of the activity. The present assessment team was told by all MPs that their primary concern was the first listed function, followed by constituency services. It might be useful for a survey, formal or informal, of other members to be undertaken in order to confirm this ordering. Whether this is done or not, the

major point is that MPs need to begin take ownership of the project, in part so that they are able to develop beneficial working relations with staff, instead of being antagonistic to them. The implementor of the activities needs to be solicitous of the advice and opinions of MPs and adjust activities accordingly. That implementor must be a person with experience in legislative development, not just administrative training.

Local Government: Pros and Cons of Assistance to It

Theoretically no country in the Arab world is more suited to the development of local government than is Yemen. It is a mountainous country in which communications and transportation are difficult. The country is religiously, ethnically, and tribally diverse. It has strong traditions and mechanisms of local rule and dispute resolution. There is widespread awareness that government functions need to be decentralized. At present all residents need to travel to the capital to handle even the smallest administrative matter. In the mid 1970s a popular upsurge resulted in the creation of development cooperatives that served local areas. Many Yemenis hark back to that experiment as one that demonstrates the county's suitability for and capability of developing local government institutions.

Alas, theory and practice diverge with regard to local government. Whereas it is much needed and desired, it is the subject of intense political controversy and its adoption presently is stalled. Decentralization and even federalism were referred to in the Document of Accord that was written with the hope that it would prevent the slide into civil war. In the wake of that war the President endorsed decentralization, although the term federalism had come to mean secession, so for the President and others the notion became anathema. Discussions of decentralization after the war turned largely on administrative matters and the rationality of convenience and efficiency, not participation or representation.

But even administrative decentralization has not been adopted in structural form. Two committees currently are charged with the task of 1) redrawing provincial borders and 2), drafting local government legislation. Neither committee has reported its findings as yet. USIS provided a technical assistant to the second committee in January, 1995. That technical advisor concluded that the basic political decisions which must be made before the legislation can be drafted have not been made.

Local Government: Recommendations

The potential payoff from the development of an effective system of local government in Yemen is enormous. It could greatly

enhance the performance of administrative tasks, as well as contribute to empowerment and participation of elements of civil society. Regrettably, however, the Government of Yemen has yet to take the required steps of redistricting and drafting the required legislation, to say nothing of actually establishing the requisite structures. At this stage it would be premature for USAID to provide assistance in this area. USIS has already provided technical assistance, and even that may have been premature given the absence as yet of the required political decisions. The recommendation therefore is for USAID, in conjunction with USIS and the Country Team, to continue to monitor developments in this area. If and when those developments result in legislation, it may be appropriate to undertake an assessment for the purpose of assisting in the design and establishment of appropriate structures.

Administration of Justice (AOJ): Pros and Cons of Assistance for It

Just as is the case with regard to local government--where the potential benefits of development are great but real accomplishments are minimal--so, too, does the administration of justice offer great potential for beneficial impacts, but that potential is far from being realized. Indeed, the administration of justice in Yemen is among the most retarded in the Arab world. Its complexity and low level of development impedes not only economic development and the protection of property rights, but also the realization by women of their legal rights and the protection of human rights more generally. In the absence of a reasonably effective system of justice, the rule of law can only be partial. In the case of Yemen, the rule of law is limited in scope, confined by the lack of adequate AOJ and by the vigorous assertion of traditional law and rights through various means, tribal and otherwise.

The problems associated with seeking to assist in improving the administration of justice are both political and technical. At the political level the primary difficulty is the unresolved issue of the relative roles to be played by *sharia* (Islamic law) as opposed to that of *qanun* (cannon law). In the wake of unification commercial courts were abolished. Now in the wake of the civil war Islamists are applying increasing pressure for the *sharia* to be the sole source of all legislation, hence law. There is the danger than legislation currently on the books will be rendered irrelevant by the charge that it is inconsistent with the *sharia*. While the difference between *sharia* and *qanun* can be overstated, the difference between the two and general confusion surrounding the growth of the former create technical difficulties for AOJ. But as far as a foreign donor is concerned, potential political problems resulting from becoming engaged

inadvertently or otherwise in the current struggle over the legal system
would be very counterproductive. As far as USAID is concerned, it would not be useful here in the U.S. for it to be associated with an AOJ activity that assisted courts which hand down *hudud* penalties, such as cutting off the limbs of thieves. With regard to Yemen itself, Islamists can not be anticipated to welcome American involvement in activities which would have an impact on the extent to which *sharia* is implemented.

At the technical level there are numerous other problems. Courts are only one point along a continuum that defines the AOJ. Disputes go through several phases and rarely reach definitive settlement. Court decisions add another element into the bargaining process. They rarely terminate that bargaining or impose decisions that are enforced routinely and precisely. Thus an AOJ activity concentrated on courts would address only a part of the AOJ process, and a comparatively small part at that.

A related problem is that the AOJ remains largely informal and outside the scope of the formal legal system. *`urf*, or traditional tribal custom through which disputes are arbitrated, continues to be a very important means of conflict resolution. Reform of the formal AOJ would not have a universal impact, but would be restricted primarily to urban areas and to certain categories of disputes within them. Moreover, implementation of court decisions are sporadic at best, in part because of the absence of court associated means of coercion, and in part because of the continued strength of tribes and other social units that stand against the institutions and decisions of the state.

The problems of administering commercial law illustrate more general difficulties. The commercial court systems of the north and south were never integrated, and now the former have been abolished. The law that courts apply is contradictory and ambiguous. The Investment Law of 1991 has various provisions governing investors, provisions which are contradicted, for example, by various laws passed since that time. Precisely because of the uncertainties surround the AOJ, no investor who operates under the 1991 law has yet taken a case to court. Instead, the Investment Authority acts as a sort of informal ombudsman for such investors, representing them before various ministries and legal officials charged with implementing one or more of the laws that stand in contradiction to the investment law. Thus the law in general is not clear, nor is the domain in which it is to be adjudicated. Executive decrees necessary for the application of those commercial laws drafted since unification have not been issued.

Another major lacunae of the AOJ is the absence of access by

judges, attorneys, plaintiffs and defendants to case law. Predictability requires such information, yet it is not available. The government issued one publication in the 1970s and another in 1980 that listed some cases and decisions taken in them, but no similar publication has been issued since that time. Yemenis are more familiar with Egyptian than with Yemeni case law. Lawyers with whom the assessment team met considered the lack of availability of case law one of the most important obstacles to improving AOJ in Yemen.

What can be said in favor of assisting the AOJ is that Yemen badly needs an improved system of administering justice and that if it were to have one it would reap very tangible benefits. But the task is an overwhelming one, both politically and technically. As is the case with local government, the Government of Yemen has not yet laid out the basic framework within which the AOJ could easily be worked with. One reason it has not yet done so is political. It would, therefore, be unwise for USAID to move ahead of the Government of Yemen itself.

Administration of Justice: Recommendations

Direct activities with the court system, whether with the law or its administration, seem inadvisable in the circumstances. Neither the political nor the technical environment is suitable, nor would any conceivable amount of resources be adequate.

Nevertheless, because the potential benefit of even a small improvement in AOJ is so large it may be worth some indirect, experimental activity. One such activity could be assistance to the Bar Association, such as for general institutional strengthening or for a particular activity. Since it is lawyers who would be the primary beneficiaries of an improved formal legal system (for they would presumably then gain more clients who otherwise resort to *`urf*) they have a pecuniary and institutional interest in applying pressure to improve the courts, legal data bases, implementation of decisions, etc. Thus a strengthened Bar Association could be expected in turn to apply pressure for improved AOJ.

Alternatively, the Bar Association itself could develop systems and procedures that would assist in AOJ. One obvious area would be for them to produce a regular digest of court decisions in at least some areas. Because family law is manageable (there being a few hundred cases a year in the four family law courts in San`a), and because family law pertaining to gender issues is relatively favorable to women (in comparison to other Arab countries), it might be useful to start there. The first step would be an assessment of the problems entailed in the task of recording case law, associated with an assessment of the capacity of the Bar Association to perform the task.

Human Rights: Pros and Cons of Assistance to Improve their Protection

The best argument in favor of providing assistance to improve the protection of human rights is that many Yemenis themselves are convinced that this is essential for the further development of democracy. Many of those who spoke with members of the assessment team argued that political participation is becoming too risky and is, therefore, declining. While the team was in country the beating of an outspoken intellectual occurred, it being widely assumed that the beating was administered by government controlled security forces. This was interpreted as a message to critics of the government that they had better be more restrained in their criticism. Clearly there is the possibility that HR abuses will increase and many Yemenis anticipate that. An intervention before that were to become a reality would probably be more effective than one once a pattern of abuses had been established. Moreover, the government is very sensitive about its image abroad. A signal sent through an HR activity by USAID could have considerable deterrent potential.

The negative aspect of assistance for protecting human rights is the lack of a suitable mechanism. Presently there are three HR organizations in Yemen. Two of them have been created by direct or indirect assistance from the government. One of them is headed by the judge of the San`a appellate court, a judge who has handed down numerous decisions for amputation of limbs. Many Yemenis question whether a judge who favors strict application of the *sharia* is a suitable person to head the largest HR organization in the country. They further complain that this organization has active members drawn from the security forces. On the other hand, the "independent" HR organization is closely associated with a political party, the YSP, and a group of intellectuals within it. This HR organization is perceived by some as a vehicle of partisan activity rather than a nonpartisan HR organization.

An alternative vehicle through which assistance for the protection of HR could be offered is the Bar Association. It has a committee on HR. The chairman of that committee defined his and his committee's task to the assessment team as being protecting HR through the courts and, in particular, defending the rights of lawyers against government intimidation. But the Bar Association, despite its 600 members and four branches, is not a strong nor particularly visible actor, and it, too, has a political dimension. Islamists are increasingly powerful within the organization and their influence could complicate HR activities.

Human Rights: Recommendations

In the first instance USAID, working with the country team, should actively monitor the HR situation. If it shows signs of deteriorating further, then USAID should be prepared to move quickly to make a demonstration of its awareness of and dissatisfaction with the HR situation. In order to do so USAID needs to have a prior idea and even plan as to how to proceed. This in turn would require a more detailed assessment of vehicles thorough which HR activities could be implemented. Those vehicles would include the Bar Association and its HR committee; the three Yemeni HR organizations; and possibly Arab and international HR organizations that have connections with Yemeni HR organizations.

Civil Society/NGOs: Pros and Cons of Assistance to NGOs

The primary challenge facing any attempt to facilitate democratization or improved governance through civil society is to find appropriate NGOs. In Yemen, like many other countries of the region, NGOs are of three types. The first are national level advocacy organizations, typically with close ties to the government (or an opposition group or party) and comprised of high status individuals, typically those in government employment. An example of such an NGO in Yemen is the National Union of Women. The difficulties associated with working with such NGOs is that they are closely connected to government or a political party, that they are led by high status individuals, that they have weak to non-existent organizational structures--especially outside the capital city, and that they are largely dependent on foreign assistance and therefore identified in the popular mind with foreigners, which is a real liability in an increasingly Islamist political culture.

The second type of NGOs found in Yemen are small, locally organized, functionally specific ones. In countries where local government is reasonably active, these functionally specific NGOs can contribute to governmental accountability through local level participation. The absence of local government in Yemen, however, renders this impossible. These local NGOs are cut off from government and remain within their functionally specific area. Assistance to them may facilitate the performance of a particular function, but it has little if any possibility of furthering governance and democracy objectives.

The third type of NGOs are nationally organized professional associations. In the Arab world such organizations have come to play relatively important roles in developing professionalism and in contributing to democratization. In Yemen the Bar Association is one such NGO. As discussed above, this organization has the potential to contribute to reform of the legal/judicial system and to improving protection of human rights.

The nature of civil society in Yemen is such that the first two types of NGOs are either too weak or too disconnected from the political system to contribute effectively to democratization. It is a civil society rich in traditional organizations, so there is little space left for western style, non-partisan, functionally specific or nationally organized NGOs. Yemenis usually pursue their personal interest through family, clan, tribal, regional, and other primordial ties, not through NGOs. Thus foreign donors can create NGOs, and have done so, but those NGOs remain dependent on such assistance. They are neither self-sustaining nor do they contribute significantly to the process of government. Some professional associations, on the other hand, are based on the expanding numbers of professionals and their growing role in the political economy. They therefore have greater potential to contribute to improved governance and democratization.

Civil Society/NGOs: Recommendations

Civil society in Yemen remains dominated by traditional modes of organization, such that modern style advocacy NGOs are notable by their scarcity, weakness, and dependence on external support. Traditional associations are not suitable recipients of foreign assistance. Professional associations, on the other hand, are growing in importance. Because the Bar Association have some capacity to place demands for the improvement of the AOJ and defense of HR, as recommended above an assessment of it and its capacities in these areas would be suitable.

Political Parties and Elections: Pros and Cons of Assistance to Them

The 1993 elections were a signal event in the modern political history not only of Yemen, but of the Arabian Peninsula more generally. International observers described them as free and fair, and noted that they were conducted with remarkable competence, given the novelty of elections in Yemen and the difficult physical circumstances under which they were conducted. The Supreme Election Committee, which was comprised of representatives of the different political parties, did a commendable job in overseeing the entire election process. In the wake of the elections the composition of that Committee has been changed, but it continues to function. It would be possible to provide some form of assistance to that Committee.

Arguments against providing assistance for elections in the near future include the fact that parliamentary elections are not to be held again for two years; that local government elections have not been held for seven years and are unlikely to be held in

the near future; that the borders for districts for the next parliamentary elections have yet to be determined and may not be for a considerable time to come; and that although the 1993 elections were reasonably free and fair, there was much intervention by the government in structuring outcomes through the provision of patronage to candidates, by intimidating others, and by utilizing military personnel as voters in swing constituencies. All of these charges were made by MPs and candidates to the assessment team. In other words, the elections certified outcomes that had been preordained by virtue of the application of political/administrative power. By certifying the elections free and fair international observers legitimated the illegal, anti-democratic exercise of power by the executive. Finally, elections mean little in and of themselves. It is the representative institution to which they are related that ultimately is the proof of the democratic pudding. Parliament has to prove that it can contribute to the development of democracy in Yemen before elections will again be as politically meaningful as they were in 1993. At this time, therefore, parliament is a more important focus for activities in support of democracy than are elections.

Political parties exploded into life in the wake of unification in 1990. They created a vibrant political atmosphere and made the 1993 elections choices between significant alternatives. Since the civil war the YSP has been removed from the ruling coalition and many of its members, including MPs, have been subject to various forms of harassment and intimidation by the government. As a result of the application of governmental pressure, and as a result of internal discord, the YSP has fractured into different factions. Similarly, the Ba`th Party has had to contend with increasing internal factionalism in the wake of the war. Several smaller parties that appeared at the time of the elections have more or less disappeared from the scene. In sum, the two parties that form the governing coalition--the GPC and Islah--now dominate the political landscape.

The direct provision of assistance to political parties would encounter political and technical difficulties. On the political level the government itself provides assistance to parties. Since the civil war it has suspended such assistance to the YSP and has closed down its branch offices in constituencies. If USAID were to undertake an activity intended to assist political parties, it would have to make the difficult choice of whether or not to offer such assistance to the YSP at a time when the government is essentially putting it into a political quarantine. Moreover, since the largest party is a government associated patronage party, and the second largest party an Islamist one, USAID might be put in the position of assisting parties whose nature and goals are not consistent with the objective of facilitating a transition to democracy, or with U.S.

foreign policy objectives. The fourth largest party, the Ba`th, is pro-Iraqi.

Indirect assistance to political parties by providing through parliament technical assistance which MPs can utilize is a much preferable manner of seeking to support the development of an effective political party system. Even the pro-government GPC is not a monolith. Its members have different views and agendas. By supporting MPs through assistance to parliament and developing their capacity to contribute to the political process, democratization within the party itself would be fostered. Moreover, by providing resources through parliament which parties can utilize avoids problematic issues related to direct foreign interventions into the political system.

Political parties and elections: Recommendations

When governmental plans regarding parliamentary and local government elections become clear, it may then be appropriate to consider assistance to those elections. In the meantime any assistance would be premature. No direct assistance to political parties or groups closely associated with any particular party should be offered. Instead, any assistance to parties should be indirect and take the form of assistance to members of parliament, whether they are members of political parties or are independents.

CONCLUSION

Yemen is a suitable recipient of assistance for democracy and governance because its transition to democracy was interrupted but not destroyed by the civil war; because it is widely viewed as a key test case of Arab capacity for democratization; and because such assistance would serve vital U.S. interests in the region. The ambiguous and rapidly changing political environment, however, renders problematical the design of an integrated, overall design for such assistance. Because of this it is advisable for assistance to be presented in a careful monitored context and in flexible fashion. USAID should be prepared to take advantage of opportunities as they arise. At present the parliament offers the best chance for contributing to accountable governance, and facilitating the transition to democracy more generally. The present activity in parliament, however, requires reorganization as well as more informed supervision by a person with training and experience in legislative development. In all other areas at this stage actual activities appear to be premature, but appropriate assessments which would enable USAID to be prepositioned to assist when conditions ripen should be undertaken.

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